

It didn't make America any safer at all. In fact, it worsened the racial inequities in our justice system. Black Americans and White Americans use drugs at the same rates. Yet Black Americans are six times more likely to be imprisoned for drugs.

Fortunately, lawmakers on both sides of the aisle recognized this was a true injustice. I tried to undo some of the damage done by this war on drugs. We came together in 2010, on a bipartisan basis, to pass a bill I called the Fair Sentencing Act. It lowered the Federal drug sentences for the first time since the war on drugs.

Through bipartisan negotiations, we were able to significantly reduce the crack-powder sentencing disparity, but we didn't eliminate it. We reduced it from 100-to-1 to 18-to-1.

You say: How did you come up with the number of 18?

Two opposing Senators—one, myself; and the other, Jeff Sessions of Alabama, negotiated it literally in the Senate gym. We came to this agreement. We will make it 18-to-1 instead of 100-to-1. It is still dramatically higher than it should have been, but it was also dramatic progress.

Now, more than a decade later, we can finish the job with the EQUAL Act, a measure I introduced this year under the leadership of my friend and colleague, Senator CORY BOOKER. Once again, we have been able to come together on a bipartisan basis, only this time we agreed we needed to finish the job and end this disparity.

We have help on the Republican side—how about that, a bipartisan approach—with Senators PORTMAN, PAUL, TILLIS, and GRAHAM joining us.

Our House colleagues overwhelmingly agreed on a bipartisan basis themselves to change this once and for all, to go back to one-to-one in terms of sentencing on crack and powder cocaine. The legislation passed 361 to 66 in the House. Not bad, certainly in this divided political atmosphere.

It is amazing. By passing the EQUAL Act, the Members of the Senate can prove that we can learn from our mistakes.

Addiction, we have come to learn, is not a moral failing. It is a disease—a treatable disease. And if our Nation's laws encourage people to seek treatment instead of incarcerating them for seeking self-medication, we can potentially save tens of thousands of lives every year.

If I had said to the people back in Illinois 10 or 15 years ago, I went to them and said, "Did you hear somebody downtown last night died of a drug overdose?" 15 years ago, you would have said, "Oh, that is a darn shame."

And if I said, "Try to describe to me what you think that person looked like, who that person was," they would have said, "My guess is it is an African American, probably a male. He is probably between 20 and 35 years of age."

And you would have been right 15 years ago.

But now we are seeing overdoses, particularly with opioids and fentanyl, that really belie that image, that stereotype of the drug addict. We are finding drug addiction to opioids reaching every corner of society—Black, White and Brown, young and old, people who have a lot of money, and people who are dirt poor.

And so we started looking at addiction differently. It isn't a problem with the minorities. It is a problem with America that we have to cope with. And we need to deal with it honestly, not with stiff criminal penalties so much as treatment that can deal with these addictions, and that is critically important.

The war on drugs took its toll on America. It directly fueled the crisis of mass incarceration, and we wasted—wasted—billions of Federal dollars in the process, dollars that could have been spent on actually making America safe.

We need to replace criminalization with commonsense and compassion. We can start by passing the EQUAL Act.

#### NOMINATIONS

Mr. President, on a separate topic, as we round out the week, we continue to vote on a number of very important executive and judicial nominations.

I want to start by speaking quickly about four critical positions in the Justice Department: Matt Olsen, to head the DOJ National Security Division; Chris Schroeder, nominated to head the Office of Legal Counsel; Hampton Dellinger, Office of Legal Counsel; Elizabeth Prelogar, to serve as the Nation's next Solicitor General.

All of them are eminently qualified, have deep experience and strong credentials, and they understand the importance of DOJ independence. Let me say a few words about them.

Matt Olsen has dedicated the bulk of his career to helping keep our Nation safe, and he will continue to do that same thing as Assistant Attorney General for National Security. From his time at the Justice Department to his work at the National Security Agency, to his tenure as the confirmed Director of the National Counterterrorism Center, he has been a leader when it comes to security in America.

Chris Schroeder, nominated to head the Justice Department's Office of Legal Counsel—or OLC—has significant experience, including serving as counselor to the Assistant Attorney General and as Deputy Assistant himself. He has a deep understanding of the office and is ready to provide the kind of skill and experience we need.

Hampton Dellinger, nominated to serve as Assistant AG for the Office of Legal Policy, has bipartisan support in our committee and has decades of public and private service. He oversaw the judicial vetting process for State judges in North Carolina. I am confident he will enable the Department of Justice to continue its track record of processing President Biden's highly qualified nominees.

Elizabeth Prelogar, nominated to be the U.S. Solicitor General, is an accomplished appellate advocate. She argued nine cases before the Supreme Court and filed hundreds of amicus briefs and other petitions. She knows this job, and she knows it well, and it is time that she is given this opportunity to serve.

Let me conclude by saying that these nominees are the kind of experienced people we need. We have good nominees for the court as well.

The Senate will also be voting soon on two highly qualified nominees for the Federal judiciary: Omar Williams for the District of Connecticut and Beth Robinson for the Second Circuit.

These nominees have received strong support from their home State senators. They both currently serve as State court judges, and both have been rated "well qualified" by the American Bar Association. Their records show that they have an even-handed approach to administering justice and that they are guided by one principle above all else: fidelity to the rule of law.

Judge Omar Williams, nominated to the District of Connecticut, is an accomplished State court judge and former public defender who has earned wide acclaim from the Connecticut legal community.

In recognition of his work on the State bench, Judge Williams was appointed to several important judicial bodies by the Connecticut Supreme Court, including the New England Regional Judicial Opioid Initiative. He also received bipartisan support in the Judiciary Committee.

As I mentioned, we will also be voting on Vermont Supreme Court Justice Beth Robinson, nominated to the Second Circuit Court of Appeals. Justice Robinson is an experienced litigator with a proven track record of impartial, even-handed judicial decision-making.

She attended Dartmouth College and the University of Chicago Law School. After graduating, she clerked for Judge David Sentelle—a President Reagan appointee—on the U.S. Court of Appeals for the D.C. Circuit.

In private practice, Justice Robinson specialized in civil litigation. She also developed a large practice representing LGBTQ clients in civil rights and family law issues.

Justice Robinson was a proponent of LGBTQ rights at a time when most were not. She championed same-sex couples' freedom to marry and participate in, as Justice Kennedy said in *Obergefell*, the "highest ideals of love, fidelity, devotion, sacrifice, and family."

As an advocate, she always understood and respected the important intersection between LGBTQ rights and religious liberty. She worked with Vermont State representatives on a marriage equality bill to "affirm[] what the Constitution required—that no clergy would be forced to perform a same-sex marriage against their will."

Since her appointment to the bench, Justice Robinson has proven that she respects the difference between being an advocate and a judge. Over the last 10 years, she has participated in nearly 1,800 decisions. And she has done so without a hint of bias.

One of her former colleagues on the Vermont Supreme Court wrote to the committee to emphasize that Justice Robinson was a “fair, unbiased” jurist. So it certainly came as a surprise when some of our colleagues on the other side suggested that Justice Robinson opposes religious liberty.

Let me be clear: This is a baseless claim. And it is a claim that was made by distorting Justice Robinson’s record. So let’s set the record straight.

In private practice, she represented a Catholic woman who believed that she had been discriminated against because of her religious views. Remarkably, committee Republicans offered this as proof of Justice Robinson’s hostility toward religious liberty.

In private practice, Justice Robinson was also instrumental in ensuring that a Vermont marriage equality bill included protections desired by religious leaders, such as a provision specifying that clergy would never be “forced to perform a same-sex marriage against their will.”

In 2003, she stated: “I’ve always said that if somebody tried to force the Catholic Church to do a gay wedding, I would represent the Church pro bono.”

So these claims that she is biased have no basis in reality.

Justice Robinson is an outstanding nominee with impeccable credentials. She has a proven even-handed approach to justice. And she would be the first openly LGBTQ woman to serve on a circuit court.

I look forward to supporting both Judge Williams and Justice Robinson, and I urge my colleagues to join me.

The PRESIDING OFFICER. The Senator from New Jersey.

#### EQUAL ACT

Mr. BOOKER. Mr. President, I first want to say before my colleague leaves—I know he has a packed day—when I came to the U.S. Senate, I found a friend, I found a mentor, and I found a leader on issues of justice. The incredible friend I have in the Senator from Illinois—he has been leading on issues from immigration reform and fighting for Dreamers all the way to being the principal leader on the Democratic side for the passage of the First Step Act.

I will never forget that he invited me to the White House in my earliest days with then-President Obama, centering me on that table. I had just gotten here, and he then was talking about these issues—the issues of mass incarceration, the issues of racial discrimination and incarceration. What I rise to talk about really is an issue that my colleague has been dealing with for 35 years. He gave important history.

It was a bipartisan issue 35 years ago when the Senate and House of Rep-

resentatives voted to pass the Anti-Drug Abuse Act of 1986, and the President signed it into law that year. He said, very specifically, one of the things it did was create a massive sentencing disparity between crack and powder cocaine. The bill made it so that five grams of crack cocaine—the example that my colleague gave—carried the same mandatory minimum prison sentence as 500 grams of powder cocaine. That is a 100-to-1 disparity.

What is very powerful to me is what Maya Angelou said. She said:

Do the best you can until you know better. Then when you know better, do better.

And that is the leadership of Senator DICK DURBIN. Understanding that this was a failure, that the policy did not achieve its intended purpose—in fact, it created, as he described, the opposite—DICK DURBIN then led this body towards the long process of making reforms happen.

I was proud that when I got into the Senate, Senator DURBIN told me the story of how we got it from 100 to 1 down to 18 to 1. It wasn’t necessarily based on science. It wasn’t necessarily based on law enforcement evidence. It was a negotiation between Senator DURBIN and another Republican colleague. I love the story because Senator DURBIN pushed for what we are asking for right now. He then fought for 1 to 1. He couldn’t get it but was able to negotiate down from 100 to 1 to 18 to 1.

So what I would like to do is read real quickly the research that looked at cocaine use in the United States from right before this bill was first passed up until 2013. I want to quote:

Despite harsher ADAA penalties for crack compared to powder cocaine, there was no decrease in crack use following implementation of sentencing policies . . . although both powder cocaine use and misuse of prescription drugs (the negative control) decreased.

The report concluded that “these findings suggest that mandatory minimum sentencing may not be an effective method of deterring cocaine use.”

This has been the growing consensus about the War on Drugs on both sides of the aisle. It has been one that has been changing policy.

I am so grateful for Senator DURBIN’s work chipping away at the mistakes that were made.

During the time between when I was in law school in the 1990s and mayor of the largest city in my State in 2006, we saw the prison population explode in this country. In that period, we were building a new prison or jail—about 1 every 10 days. We became the place on the planet Earth with the most incarcerated people. One-third of all the women incarcerated on planet Earth are now in the United States of America; one out of every four incarcerated people, period—in the United States of America.

A growing consensus of bipartisan work led by Senator DURBIN with his wingman from Jersey has been begin-

ning to undermine that, with our partners. So we saw the 2018 passage of the First Step Act, a bill which was made retroactive, and we saw thousands of people liberated from Federal prison who were unjustly sentenced under that 1986 law. The bill Senator DURBIN and I wrote and introduced, the EQUAL Act—this is again Senator DURBIN’s leadership—is now our opportunity to do better.

It must feel good for everyone who understands the good intentions but disastrous results of the crack cocaine-powder cocaine disparity. For all those who understand that we say equal justice under law, but the disproportionate impact it had on Black and Brown communities, further punishing African-American communities in a disproportionate way—in fact, incarcerated Black men at rates that we now have more Black men under criminal supervision in America than all the slaves in 1850. So we are working to do better.

The bill that I picked up to partner with Senator DURBIN on passed the House of Representatives. And Senator DURBIN hinted at this—I would have never expected it—it passed with overwhelming bipartisan support. The bill was championed by Democrats and Republicans. It passed with 149 Republicans voting for it, and now it is over here. The great thing is, our list of cosponsors, which Senator DURBIN read, is growing. I think we will have an announcement over the next few days of other Republicans joining this bill.

We can’t change the past, but we can make for a better future. We can’t undo the disparities that have disproportionately sent African Americans to prison, but we can make for a more equal and more just future.

There is an old saying that “the arc of the moral universe is long, but it bends towards justice.” It was a Martin Luther King quote. But he also said that “change does not roll in on the wheels of inevitability.” It must be carried in on the backs of people who are willing to struggle for it, people who still believe that this Nation can be a symbol to this world about justice and its justice system.

A terrible mistake was made 35 years ago. I was a teenager. There are people right now unjustly incarcerated—an affront to our most sacred ideal in this country, that of liberty. They are there because of this mistake. We have not fixed it. It was grievous. We have not fixed it. It is wrong. This is our moment. It is a moment of redemption to right past wrongs, to set this Nation on a more just course, to bend the arc of the moral universe more towards justice.

I urge my colleagues to support this bill. I urge them to be arc benders. Together, we can make this a more perfect Union.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.